

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Faria Tasnim	Team: Squad #5	CCRB Case #: 201906082	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/11/2019 10:38 AM	Location of Incident: Kingsbridge Road B/D subway station	Precinct: 52	18 Mo. SOL 1/11/2021	EO SOL 8/28/2021	
Date/Time CV Reported Thu, 07/11/2019 2:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/11/2019 2:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Wesley Campbell	19622	958363	TB DT11
2. POM Dennis Polanco	22057	959903	TB DT11

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Rashad Shomo	21513	962803	TB DT11
2. SGT Alexis Bruno	3448	952502	M E L D

Officer(s)	Allegation	Investigator Recommendation
A.POM Wesley Campbell	Abuse: Police Officer Wesley Campbell stopped § 87(2)(b)	
B.POM Wesley Campbell	Abuse: Police Officer Wesley Campbell issued a summons to § 87(2)(b)	
C.POM Dennis Polanco	Abuse: Police Officer Dennis Polanco threatened to arrest § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 11, 2019, § 87(2)(b) filed this complaint by phone.

On July 11, 2019, at approximately 10:38 a.m., § 87(2)(b) entered the Kingsbridge Road B/D subway station in the Bronx. Police Officer Wesley Campbell of Transit District 11 signaled to Police Officer Rashad Shomo, also of Transit District 11, to stop § 87(2)(b) and issue him a summons for entering the station without paying his fare (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). After § 87(2)(b) began to protest that he had swiped his MetroCard, Police Officer Dennis Polanco, also from Transit District 11, allegedly told § 87(2)(b) that he would handcuff him if he did not calm down (**Allegation C: Abuse of Authority, § 87(2)(g)**). § 87(2)(g) PO Shomo issued § 87(2)(b) a summons for manipulating the turnstile to avoid lawful payment of the fare (BR08).

The investigation obtained footage from PO Shomo's BWC (BR01, summarized at BR27). The investigation also obtained MTA surveillance footage capturing portions of the incident (BR02-07, summarized at BR20, clips #1-#6 at BR21-26). All references to video evidence below refer to the time-stamp in the video player, not the on-screen clock embedded in the video itself.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Wesley Campbell stopped § 87(2)(b).
Allegation (B) Abuse of Authority: Police Officer Wesley Campbell issued a summons to § 87(2)(b).

It is undisputed that PO Campbell signaled PO Shomo to stop § 87(2)(b) because PO Campbell believed that he had seen § 87(2)(b) commit theft of services by manipulating the turnstile to enter the station without swiping a MetroCard. It is also undisputed that PO Campbell's signal prompted PO Shomo to issue § 87(2)(b) a summons for theft of services, as PO Shomo was not in a position to see § 87(2)(b) pass through the turnstile.

§ 87(2)(b) recounted in his in-person interview that he swiped his MetroCard twice at the turnstile because there appeared to be an error the first time (BR09). After the second swipe, § 87(2)(b) entered through the turnstile. After the officers stopped him, § 87(2)(b) repeatedly protested that he had paid the fare and asked the officers to check his MetroCard.

The MTA surveillance footage confirmed that § 87(2)(b) did not evade paying the fare. Clip #4 shows § 87(2)(b) entering through the turnstile after swiping his MetroCard two times (BR24). The footage makes clear that § 87(2)(b) did not manipulate the turnstile or otherwise avoid paying the fare. The footage also shows that PO Campbell stood on the mezzanine level with a view of the turnstiles at the time § 87(2)(b) swiped his MetroCard. Clip #5 shows § 87(2)(b) jogging from the turnstiles to the stairway leading to the platform (BR25). The footage shows that once § 87(2)(b) began to descend the stairway to the platform, PO Campbell left his position and descended the stairway behind him.

At their CCRB interviews, PO Campbell and PO Shomo provided similar descriptions of the system they used to observe and stop individuals who evaded paying the fare (BR10-11). PO Campbell stood on the mezzanine level, just in front of the stairway leading down to the platform. PO Shomo stood on the train platform at the bottom of that stairway, from which position he could not see the turnstiles. PO Campbell watched the turnstiles and signaled to PO Shomo whenever he

saw an individual enter the station without paying the fare. PO Shomo then stopped the individual on the stairway and issued him or her a summons. With regard to § 87(2)(b) PO Shomo confirmed that he did not see § 87(2)(b) pass through the turnstile himself, and that he issued the summons solely because PO Campbell signaled to him that he should stop § 87(2)(b). Both PO Shomo and PO Campbell confirmed that they did not suspect § 87(2)(b) of any crime or violation other than theft of services.

PO Campbell testified that he saw § 87(2)(b) pretend to take out and swipe a MetroCard at the turnstile. § 87(2)(b) then manipulated the turnstile by pulling it backwards, placing his foot in between the turnstile, and then sliding his body through and releasing the turnstile. PO Campbell confirmed that there was nothing obstructing his view of the turnstiles at the time. After viewing the MTA surveillance footage showing § 87(2)(b) swiping his MetroCard at the turnstile and passing through without manipulating it, PO Campbell could say only that the footage was not consistent with what he observed at the time of the incident. PO Campbell did not provide any additional explanation regarding the video footage's indication that he had mistakenly concluded that § 87(2)(b) manipulated the turnstile to enter without paying.

§ 87(2)(b) appeared at the Transit Adjudication Bureau (TAB) on July 30, 2019, and produced the MetroCard which he swiped at the turnstile during the incident. The Notice of Decision and Order from that hearing indicates that the Hearing Officer conducted a search of that MetroCard's payment history and confirmed that it was used to purchase a fare at Kingsbridge Road at 10:36 a.m. on the date of the incident (BR12). As a result, the Hearing Officer dismissed § 87(2)(b)'s summons.

The MTA surveillance video and TAB documentation make clear that PO Campbell incorrectly determined that he had seen § 87(2)(b) manipulate the turnstile and evade paying the fare.

NYPD Patrol Guide Procedure 212-11 states that an officer may only stop an individual upon reasonable suspicion that the person has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (BR13).

21 NYCRR § 1050.4 states, "No person shall use or enter upon the facilities or conveyances of the authority, for any purpose, without the payment of the fare or tender of other valid fare media used in accordance with any conditions and restrictions imposed by the authority. No person shall, for purposes of gaining entry into a facility, proceed over or under any turnstile or otherwise proceed in any unauthorized manner through an exit gate or through or past any point at which a fare is required or collected" (BR14).

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Dennis Polanco threatened to arrest § 87(2)(b).

§ 87(2)(b) recounted that he protested loudly and used profanity while waiting for PO Shomo to write the summons. PO Polanco was standing near the bottom of the stairway, and he told § 87(2)(b) three times that he would put him in handcuffs if he did not calm down.

The audio in PO Shomo's BWC footage does not begin until § 87(2)(b) is already seated on the stairway, and it is clear that some conversation between § 87(2)(b) and officers has already taken place. PO Shomo remains facing § 87(2)(b) throughout the footage, and it is apparent that § 87(2)(b) directs statements to other officers on the platform who are not standing in view of PO Shomo's BWC. PO Polanco is never visible in the footage. At the 1:16 mark in the footage, § 87(2)(b) is heard saying, "If I don't calm down, they'll put me in handcuffs" (BR01). No officer can be heard either stating that § 87(2)(b) would be handcuffed or responding to § 87(2)(b)'s comment throughout the duration of the video.

PO Polanco denied that he interacted with § 87(2)(b) at all during the incident, and he denied that he told § 87(2)(b) that he would be handcuffed if he did not calm down (BR16). PO Polanco explained that he stood at the middle of the platform while officers at either end of the platform stopped individuals who had entered without paying the fare. He recalled seeing PO Shomo and PO Campbell interacting with § 87(2)(b) and he recalled hearing § 87(2)(b) yelling, but he did not approach the interaction. PO Shomo recalled that PO Polanco was behind him on the platform, but he also denied that PO Polanco interacted with § 87(2)(b). PO Shomo testified that he told § 87(2)(b) to sit down and to relax during the incident, but he denied that he or any other officer told § 87(2)(b) that he would be handcuffed. PO Campbell testified that he never became aware during the incident that any officer told § 87(2)(b) he would be handcuffed.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)
§ 87(4-b), § 87(2)(g)
§ 87(4-b), § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR17).
- PO Campbell has been a member of service for four years. This is the first complaint to which he has been a subject.
- PO Polanco has been a member of service for four years. This is the first complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of January 23, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR18).
- § 87(2)(b) [Redacted]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Squad Leader: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------